



The Frequent Filer

Electronic Filing Newsletter
For the U.S. Bankruptcy Court
Northern District of Iowa

October 25, 2005

www.ianb.uscourts.gov

Your New Case Under BAPCPA

On October 17, 2005, a majority of the provisions of the Bankruptcy Abuse Prevention and Consumer Protection Act of 2005 (BAPCPA) became effective. To ensure compliance with the Act, the Clerk's Office has completely overhauled the required case administration processes and procedures. As a service to the Iowa Northern bankruptcy community, a "one-stop" resource of information has been provided by the court in the shape of the *Reform Act Info* page on the court's web site (www.ianb.uscourts.gov/bapcpa/index.html), and the Court has entered numerous Standing Orders to ensure compliance with the Act. This edition of the *Flier* provides yet another quick-glance overview of some of the new requirements and time lines you will encounter as you file within the Northern District of Iowa. The "articles" of this edition are presented in "chronological" order, as you would encounter the requirements in the life of your BAPCPA case. Good luck, and be careful out there...

Preferred Order of Papers filed with Petition

Understanding that a majority of the bankruptcy petition preparation software available to the Iowa Northern bankruptcy community allows the user to identify the sequence of documents that comprise the bankruptcy petition, the Clerk's Office offers the following "preferred order of documents" in a petition package:

Bankruptcy Petition (Chapters 7 and 13)

1. Voluntary Petition (Form B1)
2. Statement of Intention
3. Statement of Financial Affairs
4. Summary of Schedules
5. Schedules A-J in consecutive order
6. Declaration Concerning Debtor's Schedules
7. Matrix
8. Disclosure of Compensation of Attorney for Debtor
9. Means Test (Ch. 7) **or** Statement of Current Monthly Income and Calculation of Commitment Period and Disposable Income (Ch. 13)

Also required to be filed with the petition, but under separate docket events are the following:

10. Debtor's Certification of Credit Counseling (If not captured on the Petition Form)
11. Certificate of Completion - Credit Counseling (*Reminder: If Joint Case, you must file a Certificate of Credit Counseling for EACH Debtor using the appropriate docket entries.*)
12. Payment Advices

For those electronic filers that were waiting for just the right time to purchase a scanner, today is your lucky day! In order to successfully file a Certificate of Credit Counseling and Payment Advices for your clients, you will need to scan those documents to create the PDF file format required by the Court's CM/ECF system.

Presumption of Abuse

One of the most talked about provisions of BAPCPA is the new Means Test requirement for individual debtors. “Step One” of the two-step Means Test process for your Chapter 7 cases is to include the Means Test form within the petition package. Step two will occur during filing, when you are required by the CM/ECF system to make the determination as to whether the presumption of abuse has arisen in the case you are filing. There will be a drop down listing of two potential determinations (presumption - yes or no) that must coincide with the box selected at the top of the Means Test form. For those electronic filers who use CM/ECF case upload, your system may automatically make this selection in CM/ECF for you. Please be aware that it is the determination reported on the Means Test form that will ultimately generate the Clerk’s Notice of Abuse, so be sure that the case designation captured by the system matches the box selected on the Means Test form for that case.

Payment of Filing Fees

Fees are due upon filing. Nothing new there...But wait, BAPCPA offers a twist. Chapter 7 individual debtors are now permitted to request a waiver of filing fees and to proceed *In Forma Pauperis* (IFP). If your client meets the statutory requirements for filing IFP, there is a new docket event for “Application For Waiver of Filing Fees.” This application is to be filed with the petition (under separate docket event), and will be reviewed/ruled upon by the presiding judge in the case. If the judge grants the application, the filing fees for the petition and all subsequent debtor filings will be waived (until further order of the court). If the application is denied, the judge will require either payment of fees in full within ten (10) days, or will order an installment payment schedule for the debtor. Keep in mind that if your client’s application to waive filing fees is denied, any payments under the order denying must be made directly to the Clerk’s Office

and **may not** be paid utilizing the Internet Credit Card module of CM/ECF.

Reminder: Effective Monday, October 17, 2005, the fees to file chapter 7, 13, and 11 petitions changed as follows:

Fee to file a Chapter 7 Case	\$ 274.00
Fee to file a Chapter 13 Case	\$ 189.00
Fee to file a Chapter 11 Case	\$1,039.00



New “Deficiency Cure” Process

The Iowa Northern Bankruptcy Court has formalized its “deficiency process” for new petitions. Effective for all cases filed on or after October 17, 2005, the Clerk’s Office will issue a revised “Notice to Comply with Rule 1007” that will contain an admonition to the filer that all required schedules and/or documents must be filed within fifteen (15) days of the petition filing date, or an Order Dismissing Case shall enter with no further notice or hearing on the sixteenth (16th) day. This admonition will be included in all deficiency notices issued by the Clerk’s Office regardless of the allotted “deficiency cure” time. For a complete listing of updated deficiencies and their associated cure times see the BAPCPA Quick Reference Guide available on the Court’s Reform Act Info page.

Reminder -

With the exception of Small Business Chapter 11's, federal tax returns are not required to be filed with the petition. Under other chapters, they are only required to be filed upon request by the Court, the UST or a party in interest.

Tax Returns to Trustee

Under BAPCPA, tax returns are required to be filed with the petition, only in Small Business Chapter 11 cases. However, your client(s) may be required to provide tax return information to the case trustee no later than seven days prior to the §341 Meeting of Creditors. IANB Standing Order #14 provides a clear procedure for the dismissal of cases based upon the debtor's failure to either provide the requisite tax information, or timely request an extension of time to provide the information. The full procedures and Standing Order #14 are available at the court's Reform Act Info Page.

Creditors and Claimants -

There are now two types of Preferred Creditor Address for notice by the Clerk's Office - **Case Specific** and **National Preferred Address**.

Case Specific - Creditors may file with the court and serve on the debtor a notice of the address that must thereafter be used to give notice to the creditor in that case. The court and debtor must use that address beginning five days after they receive the creditor's notice. The Clerk's Office will update the creditor address captured in CM/ECF for that case for all such requests. (Requests for Notice Pursuant to Bankruptcy Rule 2002) and Proof of Claim.) This update will supercede any Nationally Preferred Address specified by the creditor.

National Preferred Address - Creditors may file a notice with any bankruptcy court setting out the address or addresses to which notices must be sent to the creditor by all bankruptcy courts or by particular bankruptcy courts. This address notice becomes effective 30 days after it is filed. The required form notice is available on the court's Reform Act Info page and should be faxed/mailed directly to the BNC to avoid any unnecessary delay in noticing to the creditor.

Frequently Asked Questions

Listed below are some of the Frequently Asked Questions recently received about BAPCPA and our CM/ECF System. Okay, I made these questions up, but it's a quick and easy way to put out bulleted information:

Means Testing and IFP...got it. But are there any other changes to the case opening screens in CM/ECF?

Three significant changes to note, all on the same case opening screen:

If you will be filing an application to waive fees with your case, you will need to designate the fee status as **IFP-Filing Fee Waived** at the time of filing. This designation resides just below the Type of Debtor check-box selection field.

If your client/debtor is a Small Business Chapter 11 - You will designate as such in the Small Business drop down list located beneath the Type of Debtor check-box selection field.

Two additional choices for Type of Debtor:

- Health Care Business - This box must be checked during case opening to set the appropriate deadline for appointment of a Health Care Ombudsman; and
- Single Asset Debtor

Are there new requirements for Reaffirmation Agreements under BAPCPA?

You bet! BAPCPA modified debt reaffirmation guidelines to mandate specified detailed disclosures and explanations to the debtor for dischargeable debt agreements. IANB Standing Order No. 12 clearly defines the procedural requirements and mandatory form that apply to all Reaffirmation Agreements filed **in cases commenced on or after October 17, 2005**. Standing Order No. 12 is available on the court's Reform Act Info page.